

By: Rodriguez

S.B. No. 1361

A BILL TO BE ENTITLED

AN ACT

relating to a bill of rights for persons receiving Medicaid long-term services and supports under state benefits programs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0831 to read as follows:

Sec. 531.0831. MEDICAID LONG-TERM SUPPORTS AND SERVICES RECIPIENTS' BILL OF RIGHTS. (a) It is the policy of this state that, to the extent provided by state or federal law or policy, each recipient of Medicaid long-term services and supports under a state benefits program has the right:

(1) to live as independently as possible and to live a full, healthy, participatory life in the community;

(2) to control the recipient's own life and to be directly involved in choosing services and supports that are:

(A) centered on the recipient's personal goals and aspirations; and

(B) directed and overseen by the recipient according to the individual's choice for self-direction;

(3) to receive supports necessary to secure and retain competitive employment;

(4) to receive effective support and information to be able to self-advocate or receive assistance from guardians and family members who have received the necessary information,

1 counseling, training, and support to provide the support and  
2 advocacy for their wards, minor children and, as requested, by  
3 adult recipients age 18 and older;

4 (5) with other interested stakeholders, to  
5 participate and be engaged in designing, implementing, and  
6 monitoring the outcomes and effectiveness of services provided  
7 under and service delivery systems used in state benefits programs;

8 (6) to receive services and supports through a  
9 delivery system that:

10 (A) is capable of addressing the recipient's  
11 individualized needs;

12 (B) reflects efforts to close gaps and  
13 discontinuities in the provision of long-term services and supports  
14 by the active promotion of innovation in the system;

15 (C) has in place a comprehensive quality  
16 management process for purposes of ensuring the health and safety  
17 of recipients and the effectiveness of services in achieving  
18 recipient goals by addressing and monitoring:

19 (i) system capabilities;

20 (ii) recipient centeredness;

21 (iii) personnel qualifications; and

22 (iv) information technology;

23 (D) is overseen by highly qualified state and  
24 federal governmental personnel with the decision-making authority  
25 necessary to proactively administer the system in the public  
26 interest; and

27 (E) is accessible, easily understood, and

1 transparent;  
2 (7) to select a health care provider that has the  
3 capacity and expertise to be able to address the recipient's  
4 specific and individualized needs;  
5 (8) where applicable, to have access to providers of  
6 institutional and home and community-based services and supports;  
7 (9) to primary and specialty health services that are  
8 effectively coordinated with long-term services and supports;  
9 (10) to have access to the durable medical equipment  
10 and assistive technology necessary to function independently and to  
11 live in the most integrated setting;  
12 (11) to receive services and supports in settings that  
13 are compliant with the federal Americans with Disabilities Act of  
14 1990 (42 U.S.C. Section 12101 et seq.);  
15 (12) to retain existing physicians and other health  
16 providers or health care coordinators who are willing to adhere to  
17 plan rules and payment schedules;  
18 (13) to be afforded periodic opportunities to change  
19 health care providers, health care coordinators, and, if  
20 applicable, managed care plans;  
21 (14) to be fully informed of recipients' rights and  
22 obligations as well as the steps necessary to access needed  
23 services; and  
24 (15) to have access to grievance and appeal procedures  
25 that take into account physical, intellectual, behavioral, and  
26 sensory barriers to safeguard individual rights under the service  
27 system provisions and applicable federal and state law.

1       (b) The commission, in cooperation with the Department of  
2 Aging and Disability Services, shall ensure that a recipient of  
3 Medicaid long-term services and supports receives a written copy of  
4 the Medicaid long-term recipients' bill of rights in the  
5 recipient's primary language, if possible, and shall ensure that  
6 the recipient is informed of the rights provided by the recipients'  
7 bill of rights:

8               (1) orally in the recipient's primary language, if  
9 possible, and in simple, nontechnical terms; or

10               (2) for a recipient who has a disability, including an  
11 impairment of vision or hearing, through any means that can  
12 reasonably be expected to result in successful communication with  
13 the recipient.

14       (c) Except as provided by this subsection, the executive  
15 commissioner and the Department of Aging and Disability Services  
16 shall ensure that the rules and policies governing Medicaid  
17 long-term services and supports are consistent with the state  
18 policy outlined by Subsection (a). The executive commissioner or  
19 the department, as appropriate, may adopt rules or policies that  
20 provide greater protections for the rights of recipients of  
21 Medicaid long-term services and supports.

22       SECTION 2. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2013.